

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

JAMES LINLOR,

Plaintiff,

V.

MICHAEL POLSON

Defendant.

Civil Action No. 1:17-cv-0013 (AJT/JFA)

ORDER

Pending before the Court is non-party Transportation Security Administration's (TSA) Motion for Extension of Time to Comply with Court's Order [Doc. No. 215] ("the Motion"). On November 16, 2017, the Court ordered TSA to produce to Plaintiff as a "covered person" under 49 C.F.R. Part 1520.7 those un-redacted portions of the SOP Manual that pertain to pat-downs in the groin area, pursuant to a protective order to be submitted within 14 days to the Magistrate Judge for his consideration and entry. The order contemplated an opportunity for TSA to conduct a background investigation and submit for the Magistrate Judge's consideration, together with its proposed protective order, any objections to the production ordered herein based on that background check. In this Motion, TSA is requesting that its filing of the designated protective order be delayed until the plaintiff "complete[s] the SSI Access Threat Assessment Questionnaire Form (TSA 221), "complete[s] an in-person enrollment at designated Universal Enrollment Services ("UES") Center," and "pay a \$14.50 fee to UES at the time of his in-person enrollment ." [Doc. No. 215].

Section 525(d) of the Department of Homeland Security Appropriations Act of 2007,

Pub. L. No. 109 – 295, § 525(d), 120 Stat. 1355, 1382 (Oct. 4, 2006) provides in pertinent part:

That in civil proceedings in the United States District Courts, where a party seeking access to SSI demonstrates that the party has substantial need of relevant SSI in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the information by other means, the party or party's counsel shall be designated as a covered person under 49 CFR Part 1520.7 in order to have access to the SSI at issue in the case, provided that the overseeing judge enters an order that protects the SSI from unauthorized or unnecessary disclosure and specifies the terms and conditions of access, unless upon completion of a criminal history check and terrorist assessment like that done for aviation workers on the persons seeking access to SSI, or based on the sensitivity of information, the Transportation Security Administration or DHS demonstrates that such access to the information for the proceeding presents a risk of harm to the nation

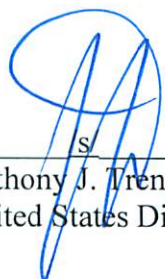
Here, the Court has already designated the Plaintiff as a "covered person," since he has substantial need of the SSI in the preparation of his case and he is unable without undue hardship to obtain the substantial equivalent of the information by other means. Moreover, the record pertaining to the Court's Order does not demonstrate that based on the sensitivity of the SSI ordered produced, which, but for its designation as SSI, does not appear to be particularly sensitive or worthy of the designation, such access to the information for the proceeding presents a risk of harm to the nation. There is also no reason to believe that the TSA is not in a position to complete a criminal history check or threat assessment without further frustrating the production of ordered SSI based on its current demands before producing ordered SSI, limited as it is.

Accordingly, it is hereby

ORDERED that TSA's Motion for Extension of Time to Comply with Court's Order [Doc. No. 215] be, and the same hereby is GRANTED IN PART; and DENIED in part. The Motion is granted to the extent that the time for TSA to submit a proposed protective order is extended to December 18, 2017; and is otherwise DENIED.

The Clerk is directed to forward copies of this Order to all counsel of record and to the *pro se* Plaintiff.

Alexandria, Virginia
December 7, 2017



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Anthony J. Trenga
United States District Judge